

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Joshua Cheyenne Gilliland,

Petitioner,

vs.

David Shinn, et al.,

Respondents.

No. CV-22-01194-PHX-SPL

ORDER

Petitioner Joshua Cheyenne Gilliland has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1). The Honorable James F. Metcalf, United States Magistrate Judge, issued a Report and Recommendation (“R&R”) (Doc. 17), recommending that the Court dismiss the Petition without prejudice. Judge Metcalf advised the parties that they had fourteen (14) days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. (Doc. 17 at 4) (citing Fed. R. Civ. P. 72; *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.”). The Court has nonetheless reviewed the R&R and finds that it is well-taken.

1 The Court will adopt the R&R and dismiss the Petition. *See* 28 U.S.C. § 636(b)(1) (stating
2 that the district court “may accept, reject, or modify, in whole or in part, the findings or
3 recommendations made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge
4 may accept, reject, or modify the recommended disposition; receive further evidence; or
5 return the matter to the magistrate judge with instructions.”). Accordingly,

6 **IT IS ORDERED:**


7 1. That Magistrate Judge James F. Metcalf’s Report and Recommendation
8 (Doc. 17) is **accepted** and **adopted** by the Court;

9 2. That the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254
10 (Doc. 1) is **dismissed without prejudice**;

11 3. That a certificate of appealability is **denied**; and

12 4. That the Clerk of Court shall **terminate** this action and enter judgment
13 accordingly.

14 Dated this 1st day of August, 2023.

15 
16 Honorable Steven P. Logan
17 United States District Judge
18
19
20
21
22
23
24
25
26
27
28